



5-346

ORDINANCE NUMBER 2816

AN ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, AMENDING THE COMPREHENSIVE ZONING ORDINANCE OF THE CITY OF FARMERS BRANCH, TEXAS, BY GRANTING A SPECIFIC USE PERMIT TO ALLOW THE SALE OF ALCOHOLIC BEVERAGES WITHIN AN EXISTING QUALIFYING RESTAURANT LOCATED AT 13233 STEMMONS FREEWAY AND WITHIN THE PLANNED DEVELOPMENT NUMBER 25 (PD-25) ZONING DISTRICT; AMENDING AND REPLACING IN ITS ENTIRETY ORDINANCE 2134; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO THOUSAND (\$2,000.00) DOLLARS; PROVIDING FOR INJUNCTIVE RELIEF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Farmers Branch deems it necessary, for the purpose of promoting the health, safety, morals, or general welfare of the City to enact a new zoning ordinance; and

WHEREAS, the City Council has appointed a Planning and Zoning Commission to recommend the boundaries of the various original zoning districts and appropriate regulations be enforced therein and to recommend a new zoning ordinance to amend the Comprehensive Zoning Ordinance; and

WHEREAS, the Planning and Zoning Commission has divided the City into districts and has prepared regulations pertaining to such districts in accordance with a comprehensive plan and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health, general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; and

WHEREAS, the Planning and Zoning Commission, has given reasonable consideration, among other things, the character of the districts and their peculiar suitability for particular uses, with a view to conserving the value of buildings and encouraging the most appropriate use of land throughout the City; and

WHEREAS, the Planning and Zoning Commission of the City of Farmers Branch and the City of Farmers Branch City Council, in compliance with the Charter of the City of Farmers Branch, and state law with reference to the granting of changes to the zoning classifications under the Zoning Ordinance Regulations and Zoning Map, have given the requisite notices by publication and otherwise, and after holding due hearings and affording a full and fair hearing to all property owners generally, and to the persons interested and situated in the affected area and in the vicinity thereof, the City of Farmers Branch City Council is of the opinion that due to a change in condition and in order to protect the public health, welfare and safety, said change in zoning should be made.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS:

SECTION 1. That all matters stated in the preamble are found to be true and correct and are incorporated herein as if copied in their entirety.

SECTION 2. That the Comprehensive Zoning Ordinance of the City of Farmers Branch, Texas, be, and the same is hereby amended, by amending the Zoning Map of the City of Farmers Branch so as to grant a specific use permit to allow the sale of alcoholic beverages within an existing qualifying restaurant located at 13233 Stemmons Freeway and within Planned Development Number 25 (PD-25) zoning district (hereinafter the "Property"), as described in Exhibit "A" and depicted in Exhibit "B", subject to the terms and conditions contained herein.

SECTION 3. That the Property shall conform in operation, location and construction to the development standards specified within the Planned Development No. 25 (PD-25) zoning district and in accordance with the approved site plan attached as Exhibit "C," the approved plan of operation attached as "Exhibit "D" and the approved alcohol awareness program attached as Exhibit "E."

SECTION 4. That the alcohol sales shall, at all times, maintain full compliance with all requirements of Texas State Law and the City of Farmers Branch Comprehensive Zoning Ordinance relative to such use.

SECTION 5. That Ordinance 2134 is hereby amended and replaced in its entirety by Ordinance 2816, deleting S-204.

SECTION 6. If any section, paragraph, subdivision, clause, phrase or provision of this ordinance shall be judged invalid or unconstitutional, the same shall not affect the validity of this ordinance as a whole or any portion thereof other than that portion so decided to be invalid or unconstitutional.

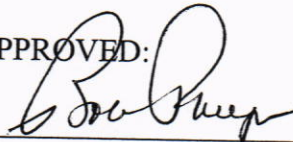
SECTION 7. That any person, firm or corporation violating any of the provisions or terms of this ordinance shall be subject to the same penalty as provided for in the Comprehensive Zoning Ordinance of the City of Farmers Branch and upon conviction shall be punished by a fine not to exceed the sum of two thousand dollars (\$2,000.00) for each offense.

SECTION 8. In addition to and accumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this ordinance.

SECTION 9. This ordinance shall take effect immediately from and after its passage as the law in such case provides.

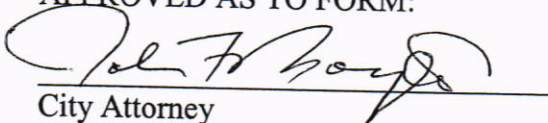
DULY PASSED BY THE CITY COUNCIL OF THE CITY OF FARMERS BRANCH, TEXAS, on this the 16th day of May, 2005.

APPROVED:



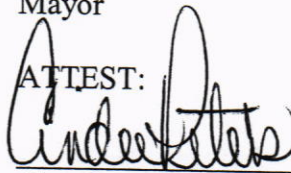
Mayor

APPROVED AS TO FORM:



City Attorney

ATTEST:



City Secretary

SITE

Being a tract of land situated in the City of Farmers Branch, Dallas County, Texas; and being part of Tract B-1, Block 1, a replat of Tract B, Block 1 of Revised Valley View Place, an addition to the City of Farmers Branch, as recorded in Volume 79104, Page 1521, of the Map and Deed Records of Dallas County, Texas, and being more particularly described as follows:

BEGINNING at a point for corner in the westerly line of IH 35 E, said point being 175.02 feet in a northerly direction from the intersection of the northerly line of Valley View Lane and the westerly line of said IH 35 E, said POINT OF BEGINNING also being the southeasterly corner of said Tract B-1, Block 1;

THENCE South $71^{\circ}46'00''$ West along the southeasterly line of Tract B-1 a distance of 289.50 feet to a point for corner;

THENCE North $13^{\circ}40'00''$ West along the centerline of a 25-foot wide Fire Lane and Access Easement a distance of 30.60 feet to a point for corner;

THENCE North $71^{\circ}46'00''$ East along the centerline of a 21-foot wide Fire Lane and Utility Easement a distance of 82.15 feet to a point for corner;

THENCE North $16^{\circ}28'21''$ West along the centerline of a 21-foot wide Fire Lane and Utility Easement a distance of 139.60 feet to a point for corner;

THENCE North $73^{\circ}31'39''$ East along the centerline of a 21-foot wide Fire Lane and Utility Easement a distance of 213.26 feet to a point for corner in the westerly line of IH 35 E;

THENCE in a southerly direction along said westerly line of IH 35 E and along a curve to the left whose tangent bears South $13^{\circ}42'44''$ East and having a radius of 11,610.00 feet, a central angle of $0^{\circ}41'41''$ and an arc length of 140.76 feet to the end of said curve to the left;

THENCE South $12^{\circ}34'24''$ East continuing along said westerly line of IH 35 E a distance of 23.21 feet to the POINT OF BEGINNING and containing 0.8613 acres.

EXHIBIT "A"

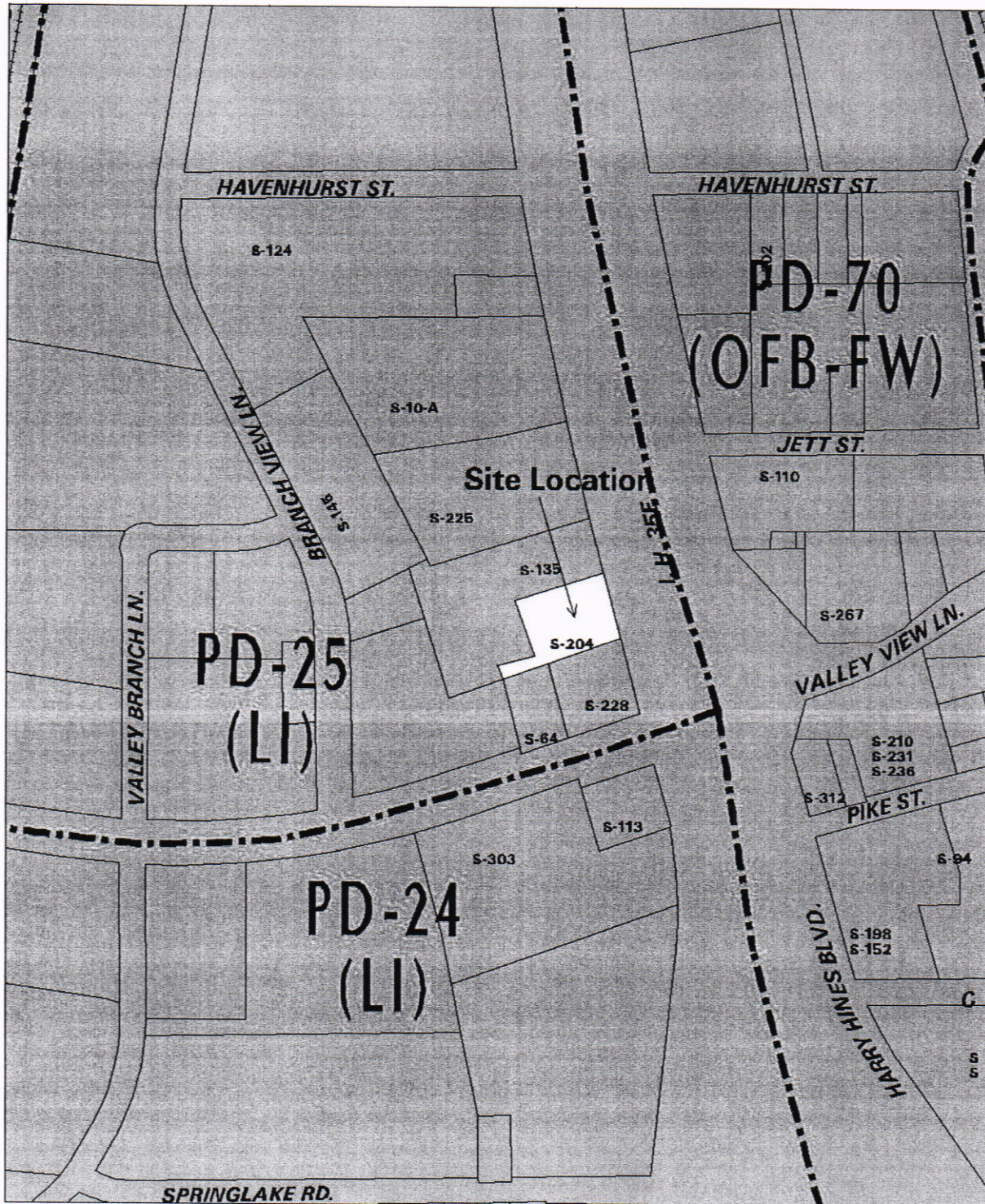
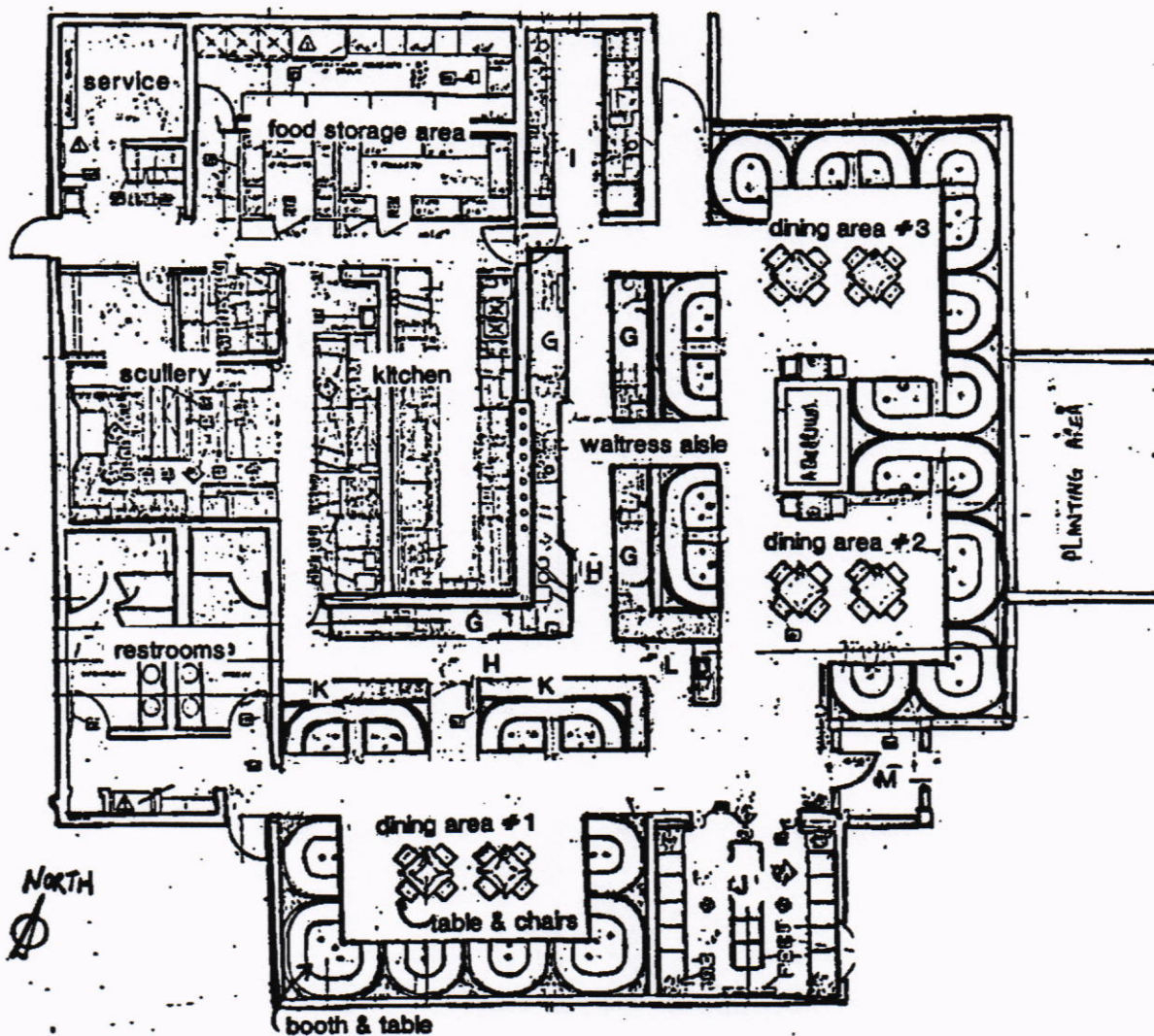


EXHIBIT "B"





FLOOR PLAN



Planning & Zoning Commission of the City of Farmers Branch
Application for Specific Use Permit

PLAN OF OPERATION

All non-residential uses must provide the following information with the application:

Describe proposed use The proposed use sale + consumption
on premises of Beer and wine in an Existing Charleford
Restaurant.

Indicate hours of operation of the proposed use Restaurant Hours 5:30am Till 8:00AM M→S
Beer and wine sale
From 7:00am To 2:00 am Monday
Thru SAT 12pm To 12am on Sunday

Total number of employees (7) seven at any given Time

Indicate if any storage is proposed outside the building NO

Indicate if any activity is proposed outside the building NO

Any other relevant unique information on the business or site NO New signage proposed

Alcohol Awareness Program
Michael's Diner
13233 Stemmons Freeway

- All Michael's Diner employees who directly or indirectly handle alcoholic beverages will be at least 18 years of age.
- Michael's Diner requires that all wait staff and managers attend a state approved alcohol-serving program. The program is approved under the Texas Alcoholic Beverage Code.
- Michael's Diner wait staff and managers will pass a written examination on completion of the program.
- Customers will provide a legal picture ID that will consist of one of the following: driver's license, military ID, state ID, or passport.
- Michael's Diner will abide by the Texas Penal Code.
- Michael's Diner manager will be on duty to make any decision on whether or not to serve alcohol at the time a customer's ID is checked.
- Only Michael's Diner wait staff shall serve alcoholic beverages and all alcoholic beverages shall be served tableside only.
- Alcoholic beverages may not be sold, served or delivered to any person who is, or is believed to be intoxicated.
- Any customer who purchases an alcoholic beverage must be 21 years of age or older.
- Anyone who is or is believed to be intoxicated will not be permitted to remain on the premises.
- Michael's Diner will furnish transportation for anyone who is, or is believed to be intoxicated.
- No alcoholic beverages will be visible to the public. All alcoholic beverages will be stored in the kitchen, food preparation or storage areas.
- Unlawful acts will be reported to the local authorities.
- No alcoholic beverages will be served after closing.
- No bar shall exist in Michael's Diner.
- Michael's Diner shall have no exterior signs advertising the sale of alcohol.
- Michael's Diner's gross sale of food shall constitute at least 60% of gross sales for each quarterly period.

EXHIBIT "E"